

ernment filed two series of requests for admissions. Trial on the issues of both the libel and the injunction began on 9-26-55. There were recesses, and the testimony was completed on 6-21-56, after nearly 7 weeks of actual trial. The case was taken under advisement by the court. On 5-29-57, the court handed down its findings of fact and conclusions of law to the effect that the articles were misbranded in that their accompanying labeling contained the false and misleading statement: "Tri-Wonda No. 1 is a powerful medicine—must be in order to relieve one's system of any form of rheumatism." On the same day the court signed a decree providing for the condemnation and destruction of the articles.

6569. Various vitamin products. (F.D.C. No. 44889. S. Nos. 32-392 R, 32-398/9 R, 35-363/4 R, 35-368/71 R, 35-373/4 R, 35-376 R, 35-378 R.)

QUANTITY: 64 100-capsule btls. of *Formula No. 385*; 20 100-capsule btls. of *Formula No. 505*; 24 100-capsule btls. of *Formula No. 616*; 65 100-tablet btls. of *Formula No. 737*; 50 100-tablet btls. of *Formula No. 739*; 42 100-tablet btls. of *Formula No. 748*; 93 100-tablet btls. of *Formula No. 749*; 18 100-capsule btls. of *Formula No. 751*; 10 100-capsule btls. of *Formula No. 752*; 23 100-capsule btls. of *Formula No. 755*; 8 4-oz. btls. of *Formula No. 760*; 5 100-tablet btls. of *Formula No. 785*; and 1 100-capsule btl. of *Formula No. 787*, at New York, N.Y., in possession of George Nemiroff & Co., Inc.

SHIPPED: On various dates during 1959 and 1960, from Baltimore, Md., and Roselle, N.J.

LABEL IN PART: "Formula No. 385 * * * Nemco-Vite Multi-Vitamins"; "Formula No. 505 * * * Nem-B-Globin with Vitamin B-12"; "Formula No. 616 * * * Multigels * * * High Potency Multiple Vitamin Therapeutic Formula"; "Formula No. 737 * * * Thiamin Chloride (Vitamin B-1) 100 mg."; "Formula No. 739 * * * Riboflavin (Vitamin B-2) 10 mg."; "Formula No. 748 * * * Niacin 100 mg."; "Formula No. 749 * * * Niacinamide 50 mg."; "Formula No. 751 * * * Vitamin A (Natural) 25,000 U.S.P. Units"; "Formula No. 752 * * * Vitamin A (Natural) 50,000 U.S.P. Units"; "Formula No. 755 * * * Wheat Germ Oil 3 minims"; "Formula No. 760 * * * Nemco-Bild An Appetite Stimulant with Lysine"; "Formula No. 785 * * * Nemco-Hist Antihistaminic Analgesic-Antipyretic with Vitamin C and Citrus Bioflavonoids"; and "Formula No. 787 * * * Therapeutic M Therapeutic Multi-Vitamins and Minerals with 10 mcg. Vitamin B-12."

ACCOMPANYING LABELING: Booklet entitled "Save On All Drugs & Vitamins at Nemiroff"; leaflets entitled "Vitascorbic No. 26," "Nemco-Vite No. 30," and "Lest You Forget."

RESULTS OF INVESTIGATION: The articles were packed in retail-size containers by the manufacturers and labeled with labels supplied by the dealer.

LIBELED: 9-19-60, S. Dist. N.Y.

CHARGE: 502(a)—while held for sale, the labeling of the articles contained the following false and misleading representations:

(a) That all of the articles, by supplying supplemental quantities of vitamins and minerals to the diet would guard the diet; promote well being; preserve the health of the tissues; provide added endurance, vigor, and growth; assure normal functioning of the digestive tract, nervous system, and other organs and systems of the body;

(b) That the articles listed in the labeling as providing supplemental amounts of vitamin A to the diet would prevent night blindness; help main-

tain resistance; promote cell growth; and assure normal reproductive function;

(c) That the articles listed in the labeling as providing supplemental amounts of vitamin B₁ to the diet would aid in the digestion of starches and sugars; the health and motility of the intestinal tract; vitally support the liver; promote proper function of the nervous system; and aid in various forms of neuritis;

(d) That the articles listed in the labeling as providing supplemental amounts of vitamin B₂ to the diet would guard against sore mouth and tongue, and granular eyelids;

(e) That the articles listed in the labeling as providing vitamin B₆ to the diet would support the digestion of fats and proteins; and aid in certain skin and nervous disorders;

(f) That the articles listed in the labeling as providing supplemental amounts of vitamin B₁₂ to the diet would aid in maturing of blood cells; the metabolism of nerve tissues; and promote the growth of the underdeveloped child;

(g) That the articles listed in the labeling as providing supplemental amounts of vitamin C to the diet would guard against gum diseases; aid in the function of certain glands; help in building and strengthening the cement-like substances in the blood vessels; be of value in treatment of physiological and psychological stress; inflammatory conditions; virus and infectious diseases; allergies; heal wounds and severe burns; and prevent simple colds;

(h) That the articles listed in the labeling as providing supplemental quantities of vitamin E to the diet would be of benefit by helping cell metabolism and fertility; and in the treatment and prevention of coronary artery disease, threatened abortion, muscular atrophy, and many other diseases;

(i) That the articles listed in the labeling as providing supplemental amounts of vitamin K to the diet would be essential for the formation of blood clotting substances originating in the liver; and for correction of an increased tendency to bleed;

(j) That the articles listed in the labeling as providing supplemental amounts of folic acid to the diet would improve the utilization of proteins and amino acids;

(k) That the articles listed in the labeling as providing supplemental amounts of niacinamide to the diet would guard against skin disorders; and promote utilization of some of the protein factors; which statements were false and misleading, since the diseases, symptoms, and conditions, stated, suggested, and implied, and the abnormality or impairment of the bodily structures or functions mentioned, are rarely if ever caused by a dietary deficiency of the vitamins mentioned, and since use of the articles would not prevent or correct such diseases, symptoms, or conditions, or correct the impairment of the bodily functions mentioned;

(l) That practically everyone in this country is suffering from, or is in danger of suffering from, a serious dietary deficiency of vitamins and minerals which is likely to result in specific deficiency diseases including rickets, pellagra, scurvy, and goiter, as well as a great number of nonspecific symptoms and conditions; that such dietary deficiency is due to loss in the nutritive value of foods caused by the growing of foods on depleted soils, and by the storage, processing, refining, shipping, and cooking of foods; that there are increased needs for nutrients by the ordinary individual due to physical and psychological stress, to increased intakes of starches and sugars, and to the limitation of

diet below adequate levels by reason of a sedentary mode of life; and that it is considered by health authorities to be advisable and even essential to supplement the diet with vitamins and minerals in order to prevent deficiencies of vitamins and minerals;

Formula No. 785 Nemco Hist, 502(a)—while held for sale, the labeling of the article contained false and misleading representations that the ingredient "Citrus Bioflavonoids," was an active ingredient of the article; 502(f) (1)—the labeling of the article failed to bear adequate directions for use; and 502(f) (2)—the labeling of the article failed to bear adequate warnings against use, in that said article was for oral use and contained antihistaminic and salicylate ingredients, and its labeling failed to warn that the article should be kept out of the reach of children; that the article might cause drowsiness; that one should not drive or operate machinery while taking the article; and that the article should not be given to children under 6 years of age or the recommended dosage exceeded unless directed by a physician.

Formula No. 385 Nemco-Vite Multi-Vitamins, 502(a)—while held for sale, the labeling of the article contained false and misleading representations that the article would be adequate and effective in the prevention and treatment of anemia and liver damage; that the article was essential to blood formation, better nutrition, and better health; that it would prolong life and cause one to live a useful, zestful, and comfortable life; and that it was adequate and effective for skin conditions because of the presence therein of vitamin F.

Formula No. 505 Nem-B-Globin, 502(a)—while held for sale, the labeling of the article contained false and misleading representations that the article was an adequate and effective treatment for all types of anemia, including pernicious anemia; headaches; listlessness; poor appetite; shortness of breath; frequent bleeding; and a general "washout" feeling; and would promote better absorption and utilization of protein; aid in maturation of blood cells and metabolism of nerve tissue; and promote growth in the underdeveloped child; and 502(f) (1)—the labeling of the article failed to bear adequate directions for use for the purposes for which it was intended, namely, for the treatment of pernicious anemia.

Formula No. 760 Nemco-Bild, 502(a)—while held for sale, the name "Nemco-Bild" was misleading, since it implied and suggested that the article was a body builder, whereas, the article is not effective for such purpose; and the labeling contained false and misleading representations that the article was effective as an appetite booster, appetite stimulant, and body builder; for retarded growth; for improved protein utilization; and as an aid in converting vegetable protein to the equivalent of the energy-building meat protein.

The libel alleged also that Formula Nos. 748, 749 and 760 were misbranded under the provisions of the law applicable to foods as reported in notices of judgment on foods, No. 27400.

DISPOSITION: 10-13-60. Consent—claimed by George Nemiroff & Co., Inc., and relabeled.

6570. Wey-Rite. (F.D.C. No. 45078. S. No. 3-457 R.)

QUANTITY: 13 cases, each containing 12 1-lb. 2-oz. cans and 9 cases, each containing 4 5-lb. cans, at Arlington, Va., in possession of Wey-Rite Potomac Sales Co.

SHIPPED: 9-28-60, from Chicago, Ill., by Life Products International, Inc.

LABEL IN PART: (Can) "Wey-Rite Contains No Drugs or Other Harmful Ingredients * * * Nutritional Health-Weight Control A Delicious Energy Sus-